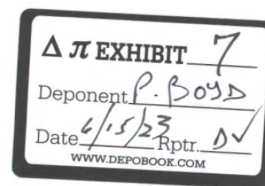


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Shady pharmacies target low-income people with HIV in 'disturbing' scheme

August 13, 2019



ATTORNEY GENERAL LETITIA JAMES ANNOUNCED CRIMINAL CHARGES AGAINST A PHARMACY OWNER AND THREE PHARMACY MANAGERS WHO ALLEGEDLY EARNED \$10 MILLION IN A MASSIVE MEDICAID FRAUD AND KICKBACK SCHEME. TWO OF THE DEFENDANTS ARE FROM QUEENS. AP PHOTO/MARY ALTAFFER.

By David Brand

When money gets tight, M. can always sell a few of his HIV pills to make some extra cash. There is no shortage of pharmacies willing to buy the medication, he said.

Shady pharmacy owners and staff around New York City purchase the expensive pills for a pittance, repackage them, fill another customer's prescription and bill Medicaid twice, or three times, or 10 times.

"A motherf----- who's on crack or a motherf----- who's just hungry, like me, we'll do it," M. said of selling the meds. "They'll give \$20 to a person on crack."

M. doesn't use hard drugs so he said he has the wherewithal and bargaining power to earn a little more money when he decides to sell. The \$100 or so that he receives for a handful of pills is chump change to pharmacies that run large-scale buyback operations.

Last month, state Attorney General Letitia James announced the arrest of a pharmacy owner and three pharmacy managers — two from Queens — who

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allegedly earned \$10.2 million in a Medicaid kickback and drug buyback scheme through First Choice Pharmacy in Harlem.

Prosecutors said an investigation determined that from Jan. 1, 2013 to Dec. 31, 2016, First Choice did not purchase enough HIV medication from licensed wholesalers to justify the amount of medication it claimed to dispense in its billing records. In essence, the enterprise allegedly billed for the same medication multiple times.

A 'deeply damaging' operation

James called the scheme "disturbing and deeply damaging to our society." The pharmacists, she said, "exploit our most vulnerable patients to steal millions of dollars reserved to provide New Yorkers with essential health care."

The schemes hurt individuals with HIV, cost taxpayers millions of dollars and drive up the viral load in communities, exposing others to the illness and spoiling the city and state's mission to drive the number of new HIV diagnoses to zero.

In recent years, investigators have busted a \$2.7 million [medication buyback scheme](#) in Queens, a \$7.9 million [fraudulent operation](#) in the Bronx, a \$15 million scam [at a pharmacy in Manhattan's Chinatown](#) and a [\\$274 million network based](#) in Babylon, Long Island.

One Bronx pharmacist made \$16 million by organizing a network of pharmacies in some of the Bronx's poorest neighborhoods, including Mott Haven and Williamsbridge, to buy customers' HIV treatment pills. In at least one site, the team of pharmacists [convinced 70 percent](#) of customers with HIV to sell their medication back to the pharmacies.

Roughly 125,000 New Yorkers were living with HIV as of 2017, [according to city data](#), and the illness is closely associated with poverty. A map of the city's poorest neighborhoods mirrors a map of the neighborhoods [with the highest rates of HIV](#), aside from a few outliers, like Chelsea, where gay men contracted HIV at high rates in the 1980s and early 90s.

Today's medication enables people with HIV to live healthy lives and [suppress their viral load](#) until it is undetectable in blood tests — though this does not mean they are cured.

"HIV is a weird disease where you have to have 90 to 95 percent maintenance. You can't miss a day," said Housing Works Chief Medical Officer Dr. Vaty Poitevien.

The virus can surge if the person stops taking their medication for an extended period, but sometimes skipping a few days and selling pills is a final option for people in need of other necessities

"I understand the pull for patients — it's completely understandable," Poitevien said. "What shocked me is that pharmacies are engaged in this business."



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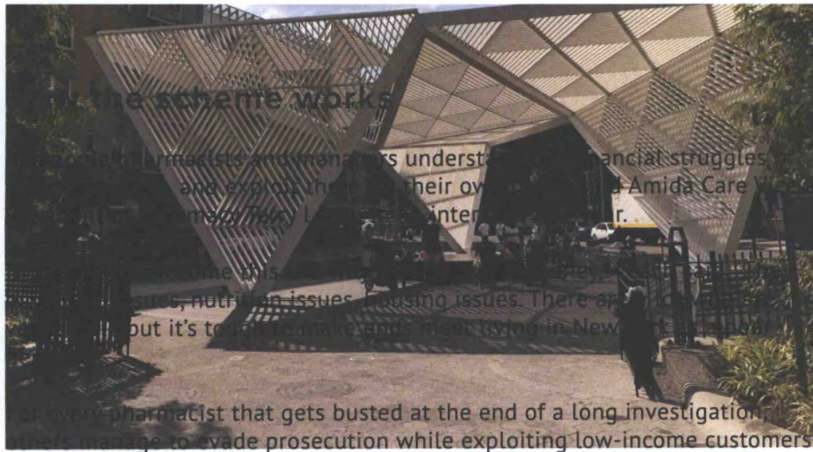


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"They're taking advantage of us," M. said. "The medications are worth thousands of dollars."

Indeed, a single tablet of Atripla, Stribild and Triumeq – three of the most common antiretroviral treatments – costs between \$92 and \$104, [according to the New York State Department of Health](#) list of Medicaid reimbursable drugs. Each pill delivers a suite of medications in one capsule, a huge upgrade from the days when people with HIV had to take a handful of pills – often with damaging side effects – every day.

The individual pill prices mean that a 30-day supply wholesales for nearly \$3,000, but the Average Wholesale Price, or AWP, is just the "sticker price" – no pharmacy ever actually pays it. Instead, pharmacy benefit managers and pharmacist trade groups serve as go-betweens, negotiating the retail price that pharmacies pay, Leach said.

Though the actual prices are based on the AWP, each pharmacy may pay a different amount depending on the insurance coverage they accept or which wholesalers' rebates they submit, Leach said.

After the complexities of determining the actual price, the pharmacy derives profit from a simple math calculation: Reimbursement minus cost.

The profits are slim. Pharmacists may even take a loss on some medications, Leach said. But if a pharmacy gets reimbursed for a medication it did not actually buy, then the profit grows exponentially.

Therein lies the incentive for a few, dangerous pharmacy owners to buy back unopened HIV prescriptions.

Say a medication costs a pharmacy \$2500 and the pharmacy receives a \$2600 reimbursement from Medicaid. That's a \$100 profit. If they buy the entire 30-day supply of medication back from the customer, that means they can resell it and bill Medicaid for another \$2600. The initial \$100 profit just became \$2700.

The pharmacist can then pretend to distribute the same medication to another customer who immediately hands it back. That's another \$2,600. If the pharmacy runs this trick for 60 customers a month, they can make \$78,000. If they do that to sixty customers a month for a year, they can make \$936,000 from fraudulent claims.

It's usually not as simple as customers selling an entire month's supply back to the pharmacy, however.

M., for example, said he would sometimes sell a handful of pills, which enabled him to make some extra money while taking his medication nearly every day. Six people selling five pills each will allow a nefarious pharmacist to repackage a full 30-day supply.

Other times, pharmacies will lighten the refill. For example, they may provide 28 pills instead of 30 and repackage the remaining two pills, said AIDS Center of Queens County Executive Director Rosemary Lopez. She said she works with clients to ensure they're getting the medication they deserve, and that their insurance pays for.

Red flags and fixes

Lopez said pharmacies often pay customers to fill their HIV medication prescriptions and add a referral fee when that customer brings in someone new. The practice is illegal, but does not mean the person has stopped taking their medication.

Still, she said, it can be a red flag when people with HIV receive money from pharmacies.

"We ask, 'Are you sure of what they're giving you in the medication bottle?'" Lopez said. "'Where are they making the money if they're giving you \$100 back. Are you sure you're getting the right pills and the right scripts?'"

M. said that long distances between home and pharmacy could also signal a problem.

"If a person lives in Washington Heights, but their pharmacy is out in Jamaica, Queens then something's up," M. said.

Law enforcement investigations are time-consuming, but there are easier ways to prevent this exploitation, said Leach, from Amida Care.

Amida Care encourages pharmacists to package pills in individual blister packs, so they are more difficult to resell and easier to count than pills contained in bottles.

At times, organizations that serve people with HIV, like Callen Lorde, maintain in-house pharmacies. Service providers and physicians monitor how many times people are filling their prescriptions or how consistently they keep their viral load down. A fluctuating viral load can indicate that someone is not taking their medication consistently, Leach said.

Meanwhile, some organizations incentivize people who maintain undetectable levels of HIV with gift cards and other rewards.

"For my patients, it's an acknowledgement — it's even more than just the money. It's, 'You guys understand what I'm going through, you see my trouble,'" Poitevien from Housing Works said. "It's huge for people to be recognized and see what they're going through."

This article is part one in a series about HIV treatment and insurance fraud.

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